

acknowledgement (NAK) but uses only positive acknowledgments to identify those remote devices that did not receive the broadcast message.

The cited Harris reference, on the other hand, is not concerned with sites not receiving any message at all but rather those having poorly received frames of information. Those are identified by a negative acknowledgments, indicating which frames have been poorly received so that the sender can then resend those frames by other means.

Referring to claim 1, the above two steps are recited as follows: 1) from those remote devices that receive said text message, sending an acknowledgement message; 2) determining by subtracting those who have sent an acknowledgement message from said plurality of remote devices, which of said of plurality of remote devices that did not receive said test message.

In claim 15 a system is recited having 1) means for sending an acknowledgement message to the control location from those remote devices that received said text message and 2) means for determining at the central location, by subtracting those that have sent an acknowledgement message from said plurality of remote devices, those remote devices that did not receive said test message.

The Harris reference does not show or suggest either of these two method steps as recited in claim 1 or either of the above mentioned means as recited in claim 15. In respect to the first step/means, the Examiner has indicated with respect to claim 5 that "Harris does not explicitly teach receiving an acknowledgement message from the mobile user, however, Harris does teach of a negative acknowledgement (NAK) received from the mobile users implying that the receiver does acknowledge not receiving certain data". With this the applicants agree. However, the Examiner goes on to say that "Therefore, it is implied by the reference that an acknowledgement message is normally transmitted in this particular instances for receiving data correctly. Further, the Examiner takes official notice that in instances where the NAK is used, the acknowledgement is also used". The applicants strongly disagree with these conclusions. There is clearly no showing or suggestion in the block diagrams or in the text of the Harris reference "that an acknowledgement message is normally transmitted in this particular instance for

receiving data correctly". Further, the Examiner has no basis for taking official notice that "in instances where the NAK is used, the acknowledgement is also used".

In respect to the second step/means as described hereinabove in claim 1 and 15, respectively, the Examiner has commented on the applicants argument previously stated that "the determination as to which of those remote sites are not able to receive is determined by subtracting from the sum of all devices...". The Examiner's comments were that, "From here, the Examiner concluded that the applicant is able to determine total number of those remote devices that did not respond, however it does not indicate the individual remote devices in need of re-sending copy of actual broadcast message". In this regard, the applicant's attorney acknowledges a mistake in his description as including the word "sum". The recited claims, on the other hand, do not include that limitation and by subtracting or eliminating those who have sent an acknowledgement message, is able to identify those remote devices that did not receive the text message. The Examiner is correct by going on to say that "On the other hand, the cited art, Harris, clearly identifies the individual remote devices by sending in NACK messages...". This is clearly different from the method and means by which the applicants identify those individual remote devices having not received the message.

For the above reasons, the applicants believe that claims 1 and 15, and all dependent claims thereon are patentably distinctive over the cited references for the reasons discussed hereinabove. Reconsideration of the Examiner's rejections and a passing of the case to issue is therefore respectfully requested.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number below.

Serial No.: 10/797,990
Amendment Dated: February 14, 2006
Reply to Office Action of January 31, 2006

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 03-0835.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

By: 
Dana F. Bigelow
Reg. No. 26,441

DFB/cmh
Telephone: (315) 425-9000

Customer No.: 20874